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Patent
Attorney Docket No. GEMS8081.070

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Mullen et al.

Serial No. : 09/681,475

Filed : April 13, 2001

For : Method and System for Graphically Displaying Consolidated Condition Data for Equipment in a Host Facility

Group Art No. : 3714

Examiner : Ronald Laneau

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

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/Robyn L. Templin/
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PRE-APPEAL BRIEF CONFERENCE REQUEST

Dear Sir:

Applicant hereby requests review of the final rejection in the above-identified application. No amendments have been made, and the request is being filed with a Notice of Appeal. Review is requested for the reasons set forth below.

REMARKS

Claims 1-34 are pending in the present application. In the Final Office Action mailed March 7, 2007, the Examiner rejected claims 1, 4, 7-9, 11-14, 16-19, and 21-34 under 35 U.S.C. §102(b) as being anticipated by Wookey et al. (USP 6,182,249) and rejected claims 2, 3, 5, 6, 10, 15, and 20 under 35 U.S.C. §103(a) as being unpatentable over Wookey in view of Hansen (USP 6,317,639). Applicant believes that Pre-Appeal review is proper due to the Examiner's procedural errors in setting forth these rejections. In particular, the Examiner has not examined claims in a manner which "clearly articulate[s]" the rejections thereof and has ignored elements of other claims. After noting these errors to the Examiner, the Examiner responded by merely concluding that "Applicant's arguments have been found unpersuasive, the Examiner maintains that the Final action was proper." *Advisory Action*, 05/21/07, pg. 2.

First, Applicant was offered no opportunity to respond to the rejection of claim 25, since no rejection was ever presented. The Examiner cited Wookey et al. as anticipating claim 25, but did not address any of the elements thereof, did not cite any portion of Wookey et al. as being relevant particularly to claim 25, and has not set forth any reasoning as to why claim 25 is believed to be anticipated. Instead, the Examiner simply grouped the rejection of claim 25 into a rejection directed at and partially quoting claim 1. *See Final Office Action*, 03/07/2007, pgs. 2-3. However, claim 1 and claim 25 call for different elements. Thus, Applicant has not been informed of how the Examiner believes that Wookey et al. anticipates the particular elements of claim 25. For at least this reason, the rejection, and the finality of the rejection, as set forth in the Final Office Action was improper. MPEP §706 ("The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity"). As the Committee is aware, the burden is upon Examiners to establish a *prima facie* case of anticipation – it is not incumbent upon an Applicant to guess at why an Examiner may have issued a rejection.

The Examiner also did not address the limitations of several dependent claims. For example, claim 7 was rejected as being anticipated by Wookey et al. As with claim 25, the Examiner simply grouped the rejection of claim 7 into the rejection which partially quotes claim 1, but did not specifically address claim 7 at all. *See Final Office Action*, 03/07/2007, pg. 2. Claim 7 calls for, in part, "identifying on the GUI a device location within the medical institution." Wookey et al. only refers to "locations" in reference to where data is stored within a network architecture. The Examiner did not elaborate as to how such a disclosure can be said to anticipate that called for in claim 7. Though Wookey et al. discloses that a monitored system 102 may be positioned remotely from the monitoring computer system 100, Wookey et al. does not

teach or suggest a GUI which displays a location of where the monitored system 102 is within an institution. See Wookey et al., Col. 3, lns. 63-65, Fig. 12.

As another example, claim 14 calls for a GUI having “a ‘Services Home’ tab, a ‘Solution Services’ tab, a ‘Services’ tab, an ‘Asset Management’ tab, a ‘Financial Services’ tab, an ‘Education’ tab, and a ‘Contact Device Provider’ tab.” The Examiner rejected claim 14 as being anticipated by Wookey et al., again without specifically addressing claim 14 at all. The Examiner merely stated that the GUI of Wookey et al. “allows for user-friendly manipulation of data and for example generation of reports may be implemented in graphical and/or tabular format with electronic editing, copying, cutting and pasting options.” *Final Office Action*, 03/07/2007, pgs. 2-3. Regardless of whether Wookey et al. actually teaches such “user-friendly manipulation of data,” Applicant has not claimed a GUI “capable” of user friendly manipulation or formatting options. Rather, Applicant has called for, in claim 14, a GUI which has seven specific informational tabs. The only disclosure of a GUI found in Wookey et al., Fig. 12, does not have the claimed tabs. In fact, the disclosure in Wookey et al. does not use most of the above-quoted phrases, and does not even use the word “tab.” The Examiner has not explained how such a deficient reference can be the basis of an anticipation rejection. To anticipate a claim, a reference must teach all elements of the claim in the particular arrangement and to level of detail recited in the claim. MPEP §2131.

Claim 23 was also rejected as being anticipated by Wookey et al., without any reasoning being set forth. Claim 23 recites that the computer of claim 17 is further programmed to “display on the GUI general information including industry news, device news, technology news, and news relating to the remote facility.” These types of general information are not called for in the alternative. To establish anticipation of claim 23, the Examiner must prove that Wookey et al. discloses a computer programmed to show a GUI having displays of all the recited information types. The only GUI shown in Wookey et al. does not have displays of news, let alone displays of the four specific types of news recited in claim 23. The Examiner’s blanket rejection, partially quoting claim 1, cannot be a sufficient basis for establishing a rejection of such dependent claims. MPEP §§ 706, 2131.

Furthermore, even where some correlation between the Examiner’s rejection and the elements of a claim can be understood, the rejections are still insufficient to establish anticipation. That is, Applicant and the Examiner do not necessarily disagree as to what Wookey et al. teaches. Rather, the Examiner is ignoring the specific terms and limitations of the claims themselves. For example, in rejecting claim 1, the Examiner stated that Wookey et al. discloses “separately displaying and identifying on a graphical user interface (GUI) the device diagnostic data and the

device reminder data,” in the discussion of an “alert” at column 16, lines 41-58 thereof. *Final Office Action*, 03/07/07, pg. 2. In response to Applicant’s prior remarks concerning the differences between a reminder and an alert, the Examiner recognized that reminder data “is based upon some predetermined information,” and that an alert is based on “predefined conditions.” *Final Office Action*, 03/07/07, pg. 5. This illustrates the Examiner’s procedural error in considering the claims - the Examiner has not appreciated the difference between an alert and the claimed “reminder.” A reminder “reminds” a user of some information that was previously known to exist. An alert informs a user that a certain set of conditions which was identified, but not previously met, has now been satisfied. *Wookey et al.*, Col. 11, lns. 56-62 (“Alerts are predefined conditions in the various components of the monitored computer system that indicate operating conditions within the system. The alerts are designed to be sufficiently flexible so that they can detect not only serious problems, but also detect performance and misconfiguration problems”). Applicant noted to the Examiner that a user might be “alerted” when a predefined “problem” arises in a monitored device, but would not be “reminded” when such a problem arises. Thus, the cited portion of *Wookey et al.* does not teach “alerting” of an already-scheduled repair, contrary to the Examiner’s contention. *Final Office Action*, 03/07/2007, pg. 2. Since, *Wookey et al.* does not teach or suggest all elements of claim 1, as they are specifically recited, Applicant respectfully requests that the Committee withdraw the Examiner’s rejection of claim 1 and all claims depending therefrom.

Likewise, claim 17 calls for a computer programmed to “continually acquire reminder data wherein the reminder data includes a plurality of scheduled tasks.” Since, as set forth with respect to claim 1, *Wookey et al.* does not teach or suggest reminder data, *Wookey et al.* cannot be said to anticipate claim 17. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 17 and all claims depending therefrom.

Claim 9 calls for a GUI having “an alert section,” a “reminder section,” and “a general information section.” The Examiner did not specifically address the elements of claim 9 in the rejection, but did note in a “Response to Arguments” section of the Final Office Action that “Wookey discloses in figure 12 a system visualization screen that provides graphical representation of a host state that displays and identifies diagnostic data.” *Final Office Action*, 03/07/07, pg. 5. The screen shown in Fig. 12 of *Wookey et al.* is a “system visualization screen” which shows a tree structure of the host state and/or an element hierarchy along with an image 1205 of the particular component being viewed along with the “attributes or token values associated with the selected element” in region 1207. *Wookey et al.*, Col. 10, ln. 55 to Col. 12, ln. 7. *Wookey et al.* also discloses, but does not illustrate, a separate GUI called an “alert viewer,”

which “display[s] a list of alerts that have arisen and have not been dealt with.” *Wookey et al.*, Col. 16, lns. 41-59. Thus, Wookey et al. cannot be said to teach or suggest one GUI which has “an alert section,” “a reminder section,” and “a general information section.” Applicant therefore believes that Wookey et al. does not anticipate claim 9 and respectfully requests withdrawal of the Examiner’s rejection of claim 9 and all claims depending therefrom.

In summary, the Examiner’s rejections are procedurally erroneous in that they do not properly consider or address all elements of all the claims. In failing to do so, the Examiner has not complied with the requirements of 35 U.S.C. §102, and MPEP §§ 706 and 2131. Applicant believes that the above-discussed claims, and all claims depending therefrom, are patentably distinct from the art of record, as illustrated by the deficiencies of the Examiner’s rejections. Thus, in light of at least the remarks set forth herein, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-34.

Applicant appreciates the Examiner’s consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

/Timothy J. Ziolkowski/

Timothy J. Ziolkowski
Registration No. 38,368
Phone 262-268-8181
tjz@zpspatents.com

Respectfully submitted,

/Stephen J. Gardner/

Stephen J. Gardner
Registration No. 59,057
Phone 262-268-8100 ext. 17
sjg@zpspatents.com

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P.O. ADDRESS:

Ziolkowski Patent Solutions Group, SC
136 South Wisconsin Street
Port Washington, WI 53074
262-268-8100